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SoCo Group, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Samuel Love,

Plaintiff,

v.

The Soco Group, Inc., a California
Corporation; and Does 1-10,

Defendants.

Case No.: 3:14-cv-02764-CAB (RBB)
Judge: Hon. Cathy Ann Bencivengo

**APPLICATION FOR STAY AND
EARLY EVALUATION
CONFERENCE OR,
ALTERNATIVELY, FOR A
MANDATORY SETTLEMENT
CONFERENCE**

Date Action Filed: Nov. 20, 2014

Pursuant to California Civil Code section 55.54 (part of Construction-
Related Accessibility Standards Compliance Act) which is applicable to both state
and federal claims of violation of construction-related access standards,¹ defendant

¹ Civil Code section 55.52(a)(6) defines “construction-related accessibility
standard” as:

a provision, standard, or regulation *under state or federal law*
requiring compliance with standards for making new construction and
existing facilities accessible to persons with disabilities,

1 The SoCo Group, Inc. hereby requests and is entitled to a stay of proceedings for
 2 ninety (90) days pending the holding of an Early Evaluation Conference, based on
 3 the following facts (Civ. Code § 55.54(a)(1)):

4 1. The Complaint in this action alleges a construction-related
 5 accessibility claim, as defined in Civil Code section 55.52(a)(1).

6 2. Defendant contends that the alleged van accessible parking
 7 deficiencies have been corrected.

8 3. That the site's new construction or improvement passed
 9 inspection by a local building department inspector who is a certified access
 10 specialist; that, to the best of defendant's knowledge, there have been no
 11 modifications or alterations completed or commenced since that inspection
 12 approval that impacted compliance with construction-related accessibility standards
 13 with respect to the plaintiff's claim except that all violations giving rise to the claim
 14 have been corrected within 60 days of the Complaint being served.

15 4. Defendant shall submit to the neutral evaluator within fifteen
 16 (15) days of the scheduled conference a Certified Access Specialist ("CASp")
 17 inspection report for the subject site and/or evidence within ten (10) days of the
 18 Court ordering an Early Evaluation Conference evidence of all violations giving
 19 rise to the claim have been corrected within 60 days of the Complaint being served.

20 Alternatively, if the Court should believe that defendant has not made
 21 the showing required for a stay and neutral evaluation conference, defendant SoCo

22
 23 including, but not limited to, any provision, standard, or regulation
 24 set forth in Section 51, 54, 54.1, or 55 of this code, Section
 25 19955.5 of the Health and Safety Code, the California Building
 26 Standards Code (Title 24 of the California Code of Regulations), *the*
 27 *federal Americans with Disabilities Act of 1990* (Public Law 101-336;
 28 42 U.S.C. Sec. 12101 et seq.), and *the federal Americans with*
Disabilities Act Accessibility Guidelines (Appendix A to Part 36 of
 Title 28 of the Code of Federal Regulations).

1 hereby alternatively requests a mandatory settlement conference be scheduled by
2 the Court at an early date, as provided by Civil Code section 55.545.²

3 WHEREFORE, defendant The SoCo Group, Inc. respectfully requests
4 that the Court:

5 (1) Enter an order staying prosecution of this action pending a
6 neutral evaluation conference to be set within 70 days, 15 days prior to which
7 conference defendant shall file a CASp report and serve a copy of the same on the
8 Court and plaintiff's counsel, which report shall be kept confidential per Civil Code
9 section 55.54(d)(4) or file with the Court and serve on plaintiff evidence of
10 correction of all violations within 10 days of the Court granting the stay; or

11 (2) Alternatively, set the matter for a Mandatory Settlement
12 Conference to be conducted at the early convenience of the Court.

13 DATED: January 26, 2015

KULL + HALL LLP

14
15 By: /s/ Robert F. Kull

16 Robert F. Kull,
17 Attorneys for defendant The SoCo
18 Group, Inc.
19
20
21

22 ² Said statute reads as follows:
23

24 (a) A defendant who does not qualify for an early
25 evaluation conference pursuant Section 55.54, or who forgoes the
26 provisions of Section 55.54, may request a mandatory evaluation
27 conference. A plaintiff may, if the defendant does not make the
28 request with the filing of the responsive pleadings, request a
mandatory evaluation conference by filing an application within 15
days of the defendant's filing of responsive pleadings.